

IC 36-4-3

Chapter 3. Municipal Annexation and Disannexation

IC 36-4-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of sections 8.5 and 8.6 (before its repeal) of this chapter by P.L.379-1987(ss) applies to taxable years that begin after January 1, 1987.

(2) The amendments made to section 4 of this chapter by P.L.379-1987(ss) apply to taxable years that begin after January 1, 1987.

As added by P.L.220-2011, SEC.649.

IC 36-4-3-1

Application of chapter

Sec. 1. This chapter applies to all municipalities except consolidated cities. However, sections 3 and 21 of this chapter do not apply to towns.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-1.4

Annexation prohibited while reorganization pending

Sec. 1.4. If a township is a participant in a proposed reorganization under IC 36-1.5-4-1(a)(2), IC 36-1.5-4-1(a)(7), or IC 36-1.5-4-1(a)(8), a municipality may not adopt an annexation ordinance annexing territory within the township within the period set forth in IC 36-1.5-4-45.

As added by P.L.202-2013, SEC.31.

IC 36-4-3-1.5

Contiguous territory; determination

Sec. 1.5. For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

As added by Acts 1981, P.L.308, SEC.1.

IC 36-4-3-1.6

Territory covered by lake

Sec. 1.6. (a) For purposes of this chapter, the acreage of the territory sought to be annexed that is covered by a public or private lake shall not be considered when determining whether the territory meets the population density or subdivision percentages required by this chapter.

(b) This section does not affect the definition of "contiguous" prescribed by section 1.5 of this chapter.

As added by P.L.348-1983, SEC.1.

IC 36-4-3-2

Territories inside corporate boundaries of another municipality

Sec. 2. Territory may be annexed by a municipality under section 3 or 4 of this chapter. However, a municipality may not annex territory that is inside the corporate boundaries of another municipality, although municipalities may merge under IC 36-4-2.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-2.1

Public hearing; notice

Sec. 2.1. (a) This section does not apply to an annexation under section 5.1 of this chapter.

(b) A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. The municipality shall hold the public hearing not earlier than sixty (60) days after the date the ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. Except as provided in subsection (d), notice of the hearing shall be:

(1) published in accordance with IC 5-3-1 except that the notice shall be published at least sixty (60) days before the hearing; and

(2) mailed as set forth in section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.

(c) A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (b).

(d) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. Notice of the hearing shall be:

(1) published one (1) time at least twenty (20) days before the hearing in accordance with IC 5-3-1; and

(2) mailed as set forth in section 2.2 of this chapter.

As added by P.L.231-1996, SEC.1. Amended by P.L.248-1999, SEC.1; P.L.49-2000, SEC.1; P.L.224-2001, SEC.1.

IC 36-4-3-2.2

Notice by certified mail

Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (f), the notice must be sent by certified mail at least sixty (60) days before the date of the

hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

(1) A legal description of the real property proposed to be annexed.

(2) The date, time, location, and subject of the hearing.

(3) A map showing the current municipal boundaries and the proposed municipal boundaries.

(4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.

(5) A detailed summary of the fiscal plan described in section 13 of this chapter.

(6) The location where the public may inspect and copy the fiscal plan.

(7) A statement that the municipality will provide a copy of the fiscal plan after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

As added by P.L.248-1999, SEC.2. Amended by P.L.217-1999, SEC.2; P.L.49-2000, SEC.2; P.L.224-2001, SEC.2; P.L.69-2010, SEC.2.

IC 36-4-3-2.5

"Public highway" defined

Sec. 2.5. (a) As used in this section, "public highway" has the meaning set forth in IC 9-25-2-4.

(b) An annexation of territory under this chapter after June 30, 1996, that includes land contiguous to a public highway must also

include contiguous areas of:

- (1) the public highway; and
- (2) rights-of-way of the public highway.

As added by P.L.232-1996, SEC.1.

IC 36-4-3-3

Annexation of contiguous territory; authorization

Sec. 3. (a) The legislative body of a municipality may, by an ordinance defining the corporate boundaries of the municipality, annex territory that is contiguous to the municipality, subject to subsection (b).

(b) If territory that was not contiguous (under section 1.5 of this chapter) was annexed in proceedings begun before May 1, 1981, an ordinance adopted after April 30, 1981, may not annex additional territory that is contiguous when the contiguity is based on the additional territory's boundaries with the previously annexed territory.

(c) Subsection (b) does not apply when the previously annexed territory has been used as a part of the contiguous boundary of separate parcels of land successfully annexed to the municipality before May 1, 1981.

(d) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance described by subsection (a) must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.2; P.L.333-1985, SEC.2; P.L.5-1989, SEC.91; P.L.3-1993, SEC.262.

IC 36-4-3-3.1

Written fiscal plan

Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5 or 5.1 of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

As added by P.L.248-1999, SEC.3. Amended by P.L.217-1999, SEC.3; P.L.224-2001, SEC.3.

IC 36-4-3-3.3

Application of section 8 of this chapter to certain annexation ordinances

Sec. 3.3. (a) This section applies to a municipality that:

(1) adopts an annexation ordinance under section 3 or 4 of this chapter:

(A) before July 1, 1999; and

(B) that becomes effective after July 1, 1999;

(2) approves the establishment of a fiscal plan under section 13 of this chapter before July 1, 1999; and

(3) is subject to section 8 of this chapter.

(b) Notwithstanding section 8 of this chapter, a municipality described in this section is not required to amend its annexation ordinance and its fiscal plan. However, a municipality described in this section shall comply with section 8 of this chapter.

As added by P.L.220-2011, SEC.650.

IC 36-4-3-3.5

Annexation ordinance; contents

Sec. 3.5. (a) An annexation ordinance adopted under this chapter must contain the following information:

(1) A description of the boundaries of the territory to be annexed, including any public highway or right-of-way.

(2) The approximate number of acres in the territory to be annexed.

(3) A description of any special terms and conditions adopted under section 8 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must also contain a description of any property tax abatements adopted under section 8.5 of this chapter.

As added by P.L.217-1999, SEC.4.

IC 36-4-3-4

Annexation of contiguous territory or noncontiguous airport, landfill, golf course, or hospital

Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.

(3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when

the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy thousand fifty (70,050) but less than seventy-one thousand (71,000);
- (2) more than seventy-five thousand (75,000) but less than seventy-seven thousand (77,000);
- (3) more than seventy-one thousand (71,000) but less than seventy-five thousand (75,000);
- (4) more than forty-seven thousand (47,000) but less than forty-seven thousand five hundred (47,500);
- (5) more than thirty-eight thousand five hundred (38,500) but less than thirty-nine thousand (39,000);
- (6) more than thirty-seven thousand (37,000) but less than thirty-seven thousand one hundred twenty-five (37,125);
- (7) more than thirty-three thousand three hundred (33,300) but less than thirty-three thousand five hundred (33,500);
- (8) more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000);
- (9) more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000);
- (10) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); or
- (11) more than thirty-two thousand five hundred (32,500) but less than thirty-three thousand (33,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under

subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-nine thousand nine hundred (29,900) but less than thirty-one thousand (31,000). The city legislative body may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the city or by a property owner that consents to the annexation.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.91-1985, SEC.2; P.L.379-1987(ss), SEC.12; P.L.5-1989, SEC.92; P.L.12-1992, SEC.156; P.L.62-1992, SEC.2; P.L.2-1993, SEC.202; P.L.257-1993, SEC.1; P.L.1-1994, SEC.174; P.L.166-1994, SEC.1; P.L.79-1996, SEC.2; P.L.255-1997(ss), SEC.9; P.L.2-1998, SEC.83; P.L.170-2002, SEC.141; P.L.111-2005, SEC.3; P.L.182-2009(ss), SEC.402; P.L.119-2012, SEC.185.

IC 36-4-3-4.1

Property tax exemption for agricultural property

Sec. 4.1. (a) A municipality may annex territory under this section only if the territory is contiguous to the municipality.

(b) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all

portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural.

(c) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(d) Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

As added by P.L.166-1994, SEC.2. Amended by P.L.79-1996, SEC.3; P.L.71-1997, SEC.3; P.L.224-1997, SEC.1; P.L.253-1997(ss), SEC.31; P.L.224-2001, SEC.4; P.L.170-2002, SEC.142; P.L.111-2005, SEC.4; P.L.71-2006, SEC.1; P.L.119-2012, SEC.186; P.L.243-2013, SEC.1.

IC 36-4-3-4.5

Applicability of IC 36-4-3-4(g)

Sec. 4.5. Section 4(g) of this chapter does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1.

As added by P.L.3-1993, SEC.263. Amended by P.L.255-1997(ss), SEC.10.

IC 36-4-3-5

Private lands; petition requesting ordinance to annex; filing; proceedings

Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and

shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.3; P.L.5-1989, SEC.93; P.L.3-1993, SEC.264; P.L.255-1997(ss), SEC.11; P.L.224-2001, SEC.5; P.L.173-2003, SEC.22.

IC 36-4-3-5.1

Petitions signed by 100% of landowners

Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

- (1) requesting an ordinance annexing the area described in the petition; and
- (2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) The municipality may:

- (1) adopt an annexation ordinance annexing the territory; and
- (2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the

petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.

(j) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter.

As added by P.L.224-2001, SEC.6.

IC 36-4-3-6

Effect of certified copy of ordinance

Sec. 6. (a) A certified copy of an ordinance adopted under section 3 of this chapter is conclusive evidence of the corporate boundaries of the municipality in any proceeding.

(b) A certified copy of an ordinance adopted under section 4 of this chapter is conclusive evidence in any proceeding that the territory described in the ordinance was properly annexed and is a part of the municipality.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-7

Publication of adopted ordinance; effectiveness; fire protection districts

Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the

absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.4; Acts 1982, P.L.33, SEC.21; P.L.341-1987, SEC.1;

P.L.5-1989, SEC.94; P.L.224-2001, SEC.7; P.L.113-2010, SEC.116.

IC 36-4-3-7.1

Immediate effectiveness of certain annexations

Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

As added by P.L.120-1999, SEC.6.

IC 36-4-3-8

Terms and conditions in adopted ordinance

Sec. 8. (a) This section does not apply to an ordinance adopted under section 5 or 5.1 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory. The terms and conditions may include:

- (1) postponing the effective date of the annexation for not more than three (3) years; and
- (2) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.

(c) This subsection applies to territory sought to be annexed that meets all of the following requirements:

- (1) The resident population density of the territory is at least three (3) persons per acre.
- (2) The territory is subdivided or is parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are not more than one (1) acre.

This subsection does not apply to an ordinance annexing territory described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The ordinance must include terms and conditions impounding in a special fund all of the municipal property taxes imposed on the annexed territory after the annexation takes effect that are not used to meet the basic services described in section 13(d)(4) and 13(d)(5) of this chapter for a period of at least three (3) years. The impounded property taxes must be used to provide additional services that were not specified in the plan of annexation. The impounded property taxes in the fund shall be expended as set forth in this section, not

later than five (5) years after the annexation becomes effective.
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.248-1999, SEC.4; P.L.217-1999, SEC.5; P.L.224-2001, SEC.8.

IC 36-4-3-8.1

Advisory board

Sec. 8.1. (a) An advisory board shall be appointed to advise the municipality on the provision of services to the annexed territory that are paid for with the municipal property taxes impounded in a special fund under section 8 of this chapter.

(b) An advisory board shall be appointed not later than ninety (90) days after an annexation becomes effective by the filing prescribed under section 22 of this chapter.

(c) An advisory board consists of the following seven (7) members:

(1) The township trustee of the township with the largest number of residents living within the annexed territory.

(2) One (1) member of the county fiscal body representing the district with the largest number of residents living within the annexed territory.

(3) One (1) member who is:

(A) the municipal engineer if the annexing municipality has a municipal engineer; or

(B) a licensed professional engineer appointed by the municipal executive if the municipality does not have a municipal engineer.

(4) Two (2) citizen members appointed by the municipal executive who:

(A) own real property within; and

(B) reside within;

the annexed territory.

(5) Two (2) citizen members appointed by the county executive who:

(A) own real property within; and

(B) reside within;

the annexed territory.

(d) Four (4) members of the board constitute a quorum. An affirmative vote of four (4) members is required for the board to take action.

(e) A member of the board may not receive a salary. A member may receive reimbursement for necessary expenses, but only when those necessary expenses are incurred in the performance of the member's respective duties.

(f) A vacancy on the board shall be filled by the appointing authority.

(g) The board shall serve for not longer than the date all municipal property taxes impounded in the fund are expended.

As added by P.L.248-1999, SEC.5.

IC 36-4-3-8.5

Tax abatement in annexed territory; ordinance; required provisions

Sec. 8.5. (a) A municipality may, in an ordinance adopted under section 3 or 4 of this chapter, abate a portion of the property tax liability under IC 6-1.1 for municipal purposes for all property owners in the annexed territory.

(b) An ordinance adopted under subsection (a) must provide the following:

(1) A tax abatement program that is in effect for not more than three (3) taxable years after an annexation occurs.

(2) Except single family residential property described by subdivision (3), a tax abatement for all classes of property that does not exceed:

(A) seventy-five percent (75%) of a taxpayer's liability in the first year of the abatement program;

(B) fifty percent (50%) of a taxpayer's liability in the second year of the abatement program; and

(C) twenty-five percent (25%) of a taxpayer's liability in the third year of the abatement program.

(3) For a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000), a tax abatement for single family residential property that does not exceed:

(A) ninety percent (90%) of a taxpayer's liability in the first year of the abatement program;

(B) eighty percent (80%) of a taxpayer's liability in the second year of the abatement program;

(C) sixty percent (60%) of a taxpayer's liability in the third year of the abatement program;

(D) forty percent (40%) of a taxpayer's liability in the fourth year of the abatement program; and

(E) twenty percent (20%) of a taxpayer's liability in the fifth year of the abatement program.

(4) The procedure by which an eligible property owner receives a tax abatement under this section.

As added by P.L.379-1987(ss), SEC.13. Amended by P.L.56-1988, SEC.12; P.L.12-1992, SEC.157; P.L.231-1996, SEC.2; P.L.255-1997(ss), SEC.12; P.L.119-2012, SEC.187.

IC 36-4-3-8.6

Repealed

(Repealed by P.L.3-1989, SEC.228.)

IC 36-4-3-9

Town annexing within proximity of city

Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) A town may not annex within an area that extends one (1) mile

outside the corporate boundaries of a second or third class city. A town may annex within the area that extends:

- (1) more than one (1) mile; and
- (2) not more than three (3) miles;

outside the corporate boundaries of a second or third class city, if the annexation by the town does not include territory that extends more than one (1) mile outside the corporate boundaries of the town.

(c) Subsection (b) does not apply to:

- (1) a town that proposes to annex territory located in a different county than the city; or
- (2) an annexation by a town that is:
 - (A) an annexation under section 5 or 5.1 of this chapter; or
 - (B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.

(d) In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection (c)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(e) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.
As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.213, SEC.5; P.L.257-1993, SEC.2; P.L.224-2001, SEC.9; P.L.170-2002, SEC.143; P.L.111-2005, SEC.5; P.L.243-2013, SEC.2.

IC 36-4-3-9.1

Annexation of territory within county; requirements

Sec. 9.1. A municipality may annex territory within a county only if:

- (1) part or all of that municipality was within the county on January 1, 1982; or
- (2) the consent of the executive of the county is first obtained.

As added by Acts 1982, P.L.210, SEC.2.

IC 36-4-3-10

Liability of annexing municipality for indebtedness or other obligations of township; payment

Sec. 10. (a) If the township from which a municipality annexes territory is indebted or has outstanding unpaid bonds or other obligations at the time of the annexation, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory bears to the assessed valuation of all property in the township, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness.

(b) The annexing municipality shall pay its indebtedness under this section to the township executive. If the indebtedness consists of

outstanding unpaid bonds or notes of the township, the payments to the executive shall be made as the principal or interest on the bonds or notes becomes due.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-11

Remonstrances; filing; determination of signatures; hearing

Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsections (d) and (e), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(e) This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.95; P.L.248-1999, SEC.6; P.L.217-1999, SEC.6; P.L.224-2001,

SEC.10; P.L.173-2003, SEC.23; P.L.111-2005, SEC.6.

IC 36-4-3-11.5

Waiver of remonstrance not required

Sec. 11.5. A landowner in an unincorporated area is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

- (1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.
- (2) A person other than the landowner or the municipality has paid the cost of connection to the service.

As added by P.L.172-1995, SEC.4.

IC 36-4-3-12

Remonstrances; hearing; judgment; effective date of annexation

Sec. 12. (a) The circuit or superior court shall:

- (1) on the date fixed under section 11 of this chapter, hear and determine the remonstrance without a jury; and
- (2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

(b) If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.96; P.L.113-2010, SEC.117.

IC 36-4-3-13

Remonstrances; hearing; order; requirements

Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
- (2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.
- (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.
- (2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
- (2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.
- (3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.
- (4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.
- (5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed

to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

- (i) A majority of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.161; Acts 1981, P.L.308, SEC.5; Acts 1982, P.L.33, SEC.22; P.L.56-1988, SEC.13; P.L.257-1993, SEC.3; P.L.4-1997, SEC.13; P.L.255-1997(ss), SEC.13; P.L.248-1999, SEC.7; P.L.217-1999, SEC.7; P.L.76-2001, SEC.2; P.L.170-2002, SEC.144; P.L.173-2003, SEC.24; P.L.97-2004, SEC.126; P.L.111-2005, SEC.7; P.L.119-2012, SEC.188.

IC 36-4-3-14

Remonstrances; hearing; change of venue; status of annexation pending

Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the remonstrance, and during the time within which the remonstrance may be taken, the territory sought to be annexed is not considered a part of the municipality.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-15

Remonstrances; judgment; repeal of annexation; effective date of annexation

Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the judgment to the clerk of the municipality. The clerk of the municipality shall:

- (1) record the judgment in the clerk's ordinance record; and

(2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
- (2) the date of the final disposition of all appeals to a higher court;

unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(e) This subsection applies if a municipality repeals the annexation ordinance:

- (1) either:
 - (A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section 11(c) of this chapter; or
 - (B) after the hearing commences on the remonstrance as set forth in section 11(c) of this chapter; and
- (2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This

subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.6; P.L.56-1988, SEC.14; P.L.5-1989, SEC.97; P.L.12-1992, SEC.158; P.L.231-1996, SEC.3; P.L.2-1997, SEC.82; P.L.248-1999, SEC.8; P.L.224-2001, SEC.11; P.L.1-2002, SEC.157.

IC 36-4-3-15.3

Prohibition against annexation; settlement agreement

Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

(c) Under a settlement agreement between the annexing municipality and either:

(1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection (c)(1) or (c)(2).

As added by P.L.300-1989, SEC.1.

IC 36-4-3-15.5

Appeals after final publication of annexation ordinance; procedure; effective date

Sec. 15.5. (a) Except as provided in subsection (b), an owner of land within one-half (1/2) mile of territory proposed to be annexed under this chapter may, not later than sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the

annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. An owner of land within one-half (1/2) mile of the territory proposed to be annexed under this chapter may, not later than thirty (30) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

(d) If the court enters a judgment in favor of the municipality, the annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

As added by Acts 1981, P.L.308, SEC.7. Amended by P.L.5-1989, SEC.98; P.L.224-2001, SEC.12; P.L.113-2010, SEC.118.

IC 36-4-3-16

Complaint alleging injury from failure to implement plan; limitation period; relief; requirements; change of venue; costs

Sec. 16. (a) Within one (1) year after the expiration of:

- (1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; or
- (2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5)

of this chapter;
any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.1-1991, SEC.208; P.L.255-1997(ss), SEC.14; P.L.217-1999, SEC.8; P.L.173-2003, SEC.25.

IC 36-4-3-17

Disannexation; petition; remonstrances; hearing; order

Sec. 17. (a) The owner or owners of:

(1) fifty-one percent (51%) or more in number of the lots in an addition or subdivision to a municipality; or
(2) contiguous territory within the corporate boundaries of a municipality, constituting not less than one (1) entire block, if platted, and not less than one (1) acre, if not platted;
may file a petition for disannexation if any of the boundaries of the addition, subdivision, or contiguous territory forms part of the corporate boundary of the municipality. The petition must be filed with the works board of the municipality and must include a plat of the territory sought to be disannexed. Notice of the petition must be given in the manner prescribed by IC 5-3-1.

(b) A remonstrance against the granting of the petition may be filed by:

- (1) the owner of a lot in the subdivision or addition; or
- (2) the owner of territory adjoining the territory sought to be disannexed.

(c) The works board shall conduct a hearing and make a just and equitable order on the petition. In conducting the hearing, the works board may:

- (1) subpoena witnesses;
- (2) punish contempt;
- (3) adjourn the hearing from time to time;
- (4) make orders concerning streets and alleys, including their vacation; and
- (5) award damages.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-18

Disannexation; appeal of order; bond; scope of order

Sec. 18. (a) An order under section 17 of this chapter may be appealed to the circuit court for the county in which any part of the affected territory is located. If an appeal is brought, the matters determined at the original hearing shall be tried de novo, and the circuit court's order may be appealed in the same manner as other civil actions are tried and appealed. The municipality involved in the disannexation may, by its attorney, appear and defend its interests in the proceeding.

(b) The appellant or appellants in the circuit court shall give to the clerk of the municipality a bond:

- (1) with a solvent, freehold surety who is a resident of the county in which the territory is located;
- (2) conditioned on the due prosecution of the appeal and the payment of all costs accrued by or to accrue against the appellant or appellants; and
- (3) in a sum considered adequate by the clerk.

If he approves the bond, the clerk shall immediately make a transcript of all proceedings in the cause and certify it, together with all papers in the cause, to the clerk of the court in which the appeal is filed.

(c) On an appeal under this section, a court may make orders

concerning streets and alleys, including their vacation, and award damages.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-19

Disannexation; certified transcript of proceedings; list of lots affected; certified judgment; effective date of disannexation

Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie and to the office of the secretary of state. The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor or to the office of the secretary of state if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to each of the following:

- (1) The auditor of each county in which the lands or lots affected lie, on receipt of one dollar (\$1) for the making and certifying of the transcript from the petitioners for the disannexation.
- (2) The office of the secretary of state.
- (3) The circuit court clerk of each county in which the lands or lots affected are located.
- (4) The county election board of each county in which the lands or lots affected are located.
- (5) If a board of registration exists, the board of each county in which the lands or lots affected are located.
- (6) The office of census data established by IC 2-5-1.1-12.2.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

- (1) The county highway department of each county in which the lands or lots affected are located.
- (2) The county surveyor of each county in which the lands or lots affected are located.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed territory.
- (4) The township trustee of each township that lost or gained jurisdiction over the disannexed territory.
- (5) The sheriff of each county in which the lands or lots affected are located.
- (6) The office of the secretary of state.
- (7) The office of census data established by IC 2-5-1.1-12.2.

The county auditor may require the clerk of the municipality to

furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the list.

(d) A disannexation described by this section takes effect upon the clerk of the municipality filing the order with:

(1) the county auditor of each county in which the annexed territory is located; and

(2) the circuit court clerk, or if a board of registration exists, the board of each county in which the annexed territory is located.

(e) The clerk of the municipality shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date a disannexation is effective under this chapter.

(f) A disannexation order under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A disannexation order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.218-1986, SEC.1; P.L.5-1989, SEC.99; P.L.7-1990, SEC.56; P.L.3-1997, SEC.455; P.L.248-1999, SEC.9; P.L.217-1999, SEC.9; P.L.212-2001, SEC.33; P.L.1-2002, SEC.158; P.L.113-2010, SEC.119.

IC 36-4-3-20

Disannexation; limitation on subsequent proceedings

Sec. 20. After the termination of a disannexation proceeding under this chapter, a subsequent disannexation proceeding affecting the same property and asking for the same relief may not be initiated for a period of two (2) years.

As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-3-21

Contracts with owners or lessees of designated properties in lieu of annexation

Sec. 21. (a) In lieu of annexing contiguous territory or in cases not involving annexation, the executive and the proper administrative agency of a municipality, with the consent of the municipal legislative body, may enter into contracts with the owners or lessees of designated property in the vicinity of the municipality, providing for the payment or contribution of money to the municipality for municipal or public purposes specified in the contract. The payments under the contract may be:

(1) related to or in consideration of municipal services or benefits received or to be received by the property owners or lessees;

(2) in lieu of taxes that might be levied on annexation of the designated property; or

(3) wholly unrelated to municipal services or benefits to or

potential tax impositions on the designated property.

(b) Any other political subdivision that has taxing power in respect to the designated property or is entitled to share in the property taxes assessed and collected by the municipality may:

- (1) join in a contract under this section; or
- (2) enter into a separate agreement with the municipality, providing for the division and distribution of contract payments made under this section and for the receipt of a share of those payments by the municipal authority.

(c) A contract under this section may be entered into for the term agreed to by the municipality and the property owners or lessees, but that term may not exceed:

- (1) fifteen (15) continuous years under one (1) contract if the municipality is a consolidated or second class city; or
- (2) four (4) continuous years under one (1) contract if the municipality is not a consolidated or second class city.

(d) A contract under this section continues in effect for its full term unless it is:

- (1) induced by fraud of the property owners or lessees;
- (2) grossly and corruptly improvident on the part of the municipality; or
- (3) terminated or reduced in duration by agreement of the municipality and the property owners or lessees.

(e) A contract under this section may provide that during its effective term, the designated property of the contracting owners or lessees is not subject to annexation by the municipality.

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.162.

IC 36-4-3-22

Filing and recording annexation ordinances; copies; tax records

Sec. 22. (a) The clerk of the municipality shall do the following:

- (1) File each annexation ordinance against which a remonstrance or an appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with each of the following:

(A) The county auditor of each county in which the annexed territory is located.

(B) The circuit court clerk of each county in which the annexed territory is located.

(C) If a board of registration exists, the registration board of each county in which the annexed territory is located.

(D) The office of the secretary of state.

(E) The office of census data established by IC 2-5-1.1-12.2.

- (2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

- (1) the expiration of the period permitted for a remonstrance or

appeal; or

(2) the delivery of a certified order under section 15 of this chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

As added by P.L.218-1986, SEC.2. Amended by P.L.301-1989, SEC.1; P.L.5-1989, SEC.100; P.L.1-1990, SEC.358; P.L.7-1990, SEC.57; P.L.3-1997, SEC.456; P.L.248-1999, SEC.10; P.L.217-1999, SEC.10; P.L.14-2000, SEC.80; P.L.212-2001, SEC.34; P.L.276-2001, SEC.9; P.L.1-2002, SEC.159.

IC 36-4-3-23

Change in effective date of annexation or disannexation to January 1, 2010.

Sec. 23. Notwithstanding sections 7, 12, 15.5, and 19 of this chapter, as those sections existed on December 31, 2009, an annexation or disannexation that took effect January 2, 2010, because of the application of section 7(b), 12(b), 15.5(d), or 19(f) of this chapter, as those sections existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an amended ordinance or the entry of an amended judgment or order under this chapter.

As added by P.L.113-2010, SEC.120.

IC 36-4-3-24

Legalization of certain annexation ordinances adopted in Tippecanoe County before March 1, 1990; legalization of declaratory resolution of redevelopment commission; assessment date

Sec. 24. (a) This section applies to a second class city located in Tippecanoe County.

(b) Notwithstanding any other law, if a city annexed territory before March 1, 1990, and the annexation proceedings included a technical failure to describe a public way that separates the annexed territory from the city, the annexation is legalized and declared valid.

(c) Notwithstanding any other law, if the redevelopment commission of a city adopted a declaratory resolution under IC 36-7-14-15 before March 1, 1990, for any of the annexed territory described in subsection (b), the declaratory resolution is legalized and declared valid. If the declaratory resolution designated any of the annexed territory as an allocation area under IC 36-7-14-39, the assessment date for purposes of determining the base assessed value of the economic development area for purposes of IC 36-7-14-39 is March 1, 1989.

As added by P.L.220-2011, SEC.651. Amended by P.L.119-2012, SEC.189.